

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE BILL 1151

AN ACT

AMENDING SECTION 43-401, ARIZONA REVISED STATUTES; RELATING TO WITHHOLDING TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 43-401, Arizona Revised Statutes, is amended to
3 read:

4 43-401. Withholding tax: rates: election by employee

5 A. Except as provided by subsection B of this section, every employer
6 at the time of the payment of wages, salary, bonus or other emolument to any
7 employee whose compensation is for services performed within this state shall
8 deduct and retain from the compensation an amount equal to a percentage,
9 determined pursuant to subsection C of this section, of the total amount of
10 the federal income tax deducted and withheld by an employer from the total
11 value of such wages, bonus or other emolument of an employee under the
12 provisions of the United States internal revenue code computed without
13 deductions for any amount withheld.

14 B. An employer may voluntarily elect to not withhold tax during
15 December by notifying:

- 16 1. The department on a form prescribed by the department.
- 17 2. The employer's employees in writing in a manner prescribed by the
18 department.

19 C. The percentage deducted and retained under subsection A of this
20 section shall be:

21 1. If the employee's annual compensation is less than fifteen thousand
22 dollars, ten per cent, nineteen per cent, twenty-three per cent, twenty-five
23 per cent, thirty-one per cent or thirty-seven per cent, at the employee's
24 election pursuant to subsection F of this section.

25 2. If the employee's annual compensation is fifteen thousand dollars
26 or more, nineteen per cent, twenty-three per cent, twenty-five per cent,
27 thirty-one per cent or thirty-seven per cent, at the employee's election
28 pursuant to subsection F of this section.

29 3. Zero per cent at the election of an employee who had no state
30 income tax liability in the prior taxable year and expects to have no state
31 income tax liability for the current taxable year.

32 D. If the amount collected and payable by the employer to the
33 department in each of the preceding four calendar quarters did not exceed an
34 average of one thousand five hundred dollars, the amount collected shall be
35 paid to the department on or before April 30, July 31, October 31 and January
36 31 for the preceding calendar quarter. If such amount exceeded one thousand
37 five hundred dollars in each of the preceding four calendar quarters, the
38 employer shall pay to the department the amount the employer deducts and
39 retains pursuant to this section at the same time as the employer is required
40 to make deposits of federal tax pursuant to section 6302 of the internal
41 revenue code. On or before April 30, July 31, October 31 and January 31 each
42 year the employer shall reconcile the amounts payable during the preceding
43 calendar quarter in a manner prescribed by the department. For taxable years
44 or reporting periods that begin from and after December 31, 1997, the
45 department by rule may allow and determine which employers qualify for annual

1 payments of withholding taxes, with an annual report by the employer pursuant
2 to section 43-412, subsection B, if the qualifying employer has established
3 sufficient payment history to indicate that the employer is current and in
4 good standing pursuant to standards established by rule. For any business
5 which has not had a withholding certificate for the four preceding
6 consecutive quarters, the quarterly average shall be computed in a manner
7 prescribed by the department.

8 E. If an employer fails to make a timely monthly payment because prior
9 to that reporting period it reported on a quarterly basis instead of on a
10 monthly basis, the department shall notify the employer that it is out of
11 compliance with this section. Notwithstanding section 42-1125, the
12 department shall not assess a penalty against an employer for failing to make
13 a timely monthly payment if the employer had filed and remitted all taxes due
14 on a quarterly basis and brings all filings and payments into current
15 compliance within thirty days after being notified by the department.

16 F. Each employee shall elect the amount authorized by subsection C of
17 this section to be withheld for application toward the employee's state
18 income tax liability. The election provided under this subsection shall be
19 exercised by each employee, in writing on a form prescribed by the
20 department. The election shall be made within five days of employment. Each
21 employer shall notify the employees of the election made available under this
22 subsection and shall have election forms available at all times. Each form
23 shall be completed in triplicate, with one copy each for the department, the
24 employer and the employee. The employer shall file a copy of each completed
25 form with the department. Any employee failing to complete an election form
26 as prescribed shall be deemed to have elected the smallest applicable
27 withholding percentage.

28 G. Before ~~October 1, 2005 and before~~ July 1 each year ~~thereafter~~, each
29 employer who chooses to not withhold tax pursuant to subsection B of this
30 section shall notify each employee that:

31 1. State income taxes will not be withheld from compensation in
32 December.

33 2. The employee may elect to change the rate of withholding tax
34 prescribed by this section to compensate for the resulting change in annual
35 withholdings from the employee's compensation.

36 H. AT THE EMPLOYEE'S REQUEST, THE AMOUNT WITHHELD UNDER THIS SECTION
37 SHALL BE REDUCED BY THE AMOUNT OF CREDIT THAT THE EMPLOYEE REPRESENTS TO THE
38 EMPLOYER THE EMPLOYEE WILL QUALIFY FOR AND BE ENTITLED TO UNDER SECTIONS
39 43-1089 AND 43-1089.01. THE EMPLOYER MAY REDUCE THE WITHHOLDING AMOUNT BY
40 THE AMOUNT OF THE CREDIT, BUT NOT BELOW ZERO, PRORATED FOR THE NUMBER OF PAY
41 PERIODS REMAINING IN THE EMPLOYEE'S TAXABLE YEAR AFTER THE EMPLOYEE MAKES THE
42 REQUEST.

43 Sec. 2. Effective date

44 This act is effective from and after December 31, 2006.